

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

EARL THOMAS KENT, II)
Plaintiff,)
v.)
CBM LOGISTICS, LLC) Case Number: 7:19cv242
Serve: c/o Registered Agent)
Valentine Termure)
2773 Evergreen Drive)
Show Low, AZ 85901)
and)
CATALIN BADESCU a/k/a)
BADESCU CATALIN)
Serve: 2878 Pinon Pine Drive,)
Show Low, AZ 85901)
Defendants.)

COMPLAINT

COMES NOW the plaintiff, Earl Thomas Kent, II, by counsel, and for his
Complaint against defendants CBM Logistics, LLC., (“CBM”) and Catlin Badescu a/k/a
Badescu Catalin (“Badescu”)(collectively “Defendants”) says as follows:

Parties

1. Kent was, at all times relevant hereto, a citizen and resident of the Commonwealth of Virginia.
2. Badescu is a resident of the state of Arizona.
3. CBM is an Arizona limited liability company that regularly conducts business within the Commonwealth of Virginia.
4. CBM’s principal place of business is located in Arizona.

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5. At all times and places pertinent to this action, CBM owned, operated, and managed a trucking company based in Arizona.

6. At all times and places pertinent to this action, CBM acted through its employees and agents, including, but not limited to, Badescu.

7. At all times and places pertinent to this action, Badescu was an employee and/or agent of CBM.

8. At all times and places pertinent to this action, Badescu was acting in the course and scope of his employment and/or agency with CBM.

9. At all times and places pertinent to this action, CBM was vicariously liable for Badescu's actions and omissions.

Jurisdiction and Venue

10. The jurisdiction of this Court is proper pursuant to 28 U.S.C. § 1332 because this Complaint alleges damages in excess of \$75,000 and there is complete diversity between the parties.

11. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to this action occurred in this judicial district.

Facts

12. On or about July 16, 2018, Kent was operating a tractor-trailer which was stopped in traffic on northbound Interstate 81 in Wythe County, Virginia, near mile marker 72.2. Kent was lawfully stopped in traffic.

13. At the same time and place, Badescu was operating a tractor-trailer truck owned by CBM and was also traveling northbound on Interstate 81 in Wythe County, Virginia.

14. Badescu was operating a commercial motor vehicle and was subject to Federal Motor Carrier Safety Administration and Department of Transportation rules and regulations governing commercial motor vehicles.

15. Badescu failed to keep a proper lookout for traffic ahead of him, and instead slammed his tractor-trailer into the back of Kent's vehicle with great force and violence, thereby severely injuring Kent.

COUNT I – NEGLIGENCE
(Badescu)

16. Plaintiff incorporates by reference paragraphs 1 through 15 as if set forth fully herein.

17. At all times and places pertinent herein, Badescu owed Kent numerous duties, including, but not limited to:

- a. The duty to operate the tractor-trailer with reasonable care and due regard for others;
- b. The duty to keep a proper lookout;
- c. The duty to keep the tractor-trailer under proper control;
- d. The duty to give full time and attention to the operation of the tractor-trailer;
- e. The duty to operate the tractor-trailer in a safe manner, and;
- f. The duty to operate the tractor-trailer in a means consistent with the laws of Virginia and the rules and regulations established by the Federal Motor Carrier Safety Administration and the Department of Transportation.

18. Badescu breached those duties and was negligent in *at least* the following respects:

- a. Badescu chose not to operate the tractor-trailer with reasonable care and due regard for others;
- b. Badescu chose not to keep a proper lookout;
- c. Badescu chose not to keep the tractor-trailer under proper control;
- d. Badescu chose not to give full time and attention to the operation of the tractor-trailer;
- e. Badescu chose not to operate the tractor-trailer in a safe manner;
- f. Badescu drove the tractor-trailer directly into the rear of Kent's vehicle;
- g. Badescu operated the tractor-trailer in a reckless manner; and,
- h. Badescu was otherwise negligent.

19. As a proximate result of the negligence of Badescu, Kent has suffered and will continue to suffer serious and permanent injuries, emotional distress, stress, anxiety, pain and suffering, inconvenience, humiliation, embarrassment, lost income and lessening of earning capacity, and he has incurred and will continue to incur medical expenses in an effort to treat the injuries sustained in the collision.

20. Kent seeks to be fully and fairly compensated to the fullest extent permitted under Virginia law for his injuries and damages.

**COUNT II – LIABILITY IN RESPONDEAT SUPERIOR FOR THE
NEGLIGENCE OF BADESCU
(CBM)**

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21. Plaintiff incorporates by reference paragraphs 1 through 20 as if set forth fully herein.

22. At all times and places pertinent herein, CBM, through its employee and/or agent, Badescu, owed Kent numerous duties, including, but not limited to:

- a. The duty to operate the tractor-trailer with reasonable care and due regard for others;
- b. The duty to keep a proper lookout;
- c. The duty to keep the tractor-trailer under proper control;
- d. The duty to give full time and attention to the operation of the tractor-trailer;
- e. The duty to operate the tractor-trailer in a safe manner; and,
- f. The duty to operate the tractor-trailer in a means consistent with the laws of Virginia and the rules and regulations established by the Federal Motor Carrier Safety Administration and the Department of Transportation.

23. CBM, through its employee and/or agent, Badescu, breached those duties and was negligent in *at least* the respects detailed in Count I.

24. As a proximate result of the negligence of CBM and Badescu, Kent has suffered and will continue to suffer serious and permanent injuries, emotional distress, stress, anxiety, pain and suffering, inconvenience, humiliation, embarrassment, lost income and lessening of earning capacity, and he has incurred and will continue to incur medical expenses in an effort to treat the injuries sustained in the collision.

25. Kent seeks to be fully and fairly compensated to the fullest extent permitted under Virginia law for his injuries and damages.

WHEREFORE, the plaintiff hereby moves this Court for judgment against the defendants jointly and severally in an amount to be determined at trial, plus his taxable costs with interest from July 16, 2018.

TRIAL BY JURY IS DEMANDED.

EARL THOMAS KENT, II

By: s/Andrew D. Finnicum
Of Counsel

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